

# **EXHIBIT 1**

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 350

1                   UNITED STATES DISTRICT COURT  
2                   SOUTHERN DISTRICT OF NEW YORK  
3                   CASE NO. 23-CV-00613 (JGK)

4                   )  
5                   STONEX GROUP INC., and STONEX )  
6                   FINANCIAL,                           )  
7                   Plaintiff(s),                        )  
8                   vs.                                    )  
9                   HOWARD SHIPMAN,                     )  
10                   Defendant(s).                        )  
11                   \_\_\_\_\_  
12  
13  
14                   \*\* CONFIDENTIAL \*\*  
15  
16  
17                   CONTINUED VIDEOTAPED DEPOSITION OF HOWARD SHIPMAN  
18  
19                   New York, New York  
20                   Wednesday, June 14, 2023  
21  
22  
23  
24  
25                   Reported by JEFFREY BENZ, CRR, RMR

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 386

1 without pleading the Fifth. How about you? How  
2 many copies do you have in your possession?

3 A. I plead the Fifth.

4 Q. Let me just ask you something. Do you  
5 understand the consequence of pleading the Fifth  
6 Amendment in a civil case?

7 A. I probably don't, because I'm pro se,  
8 but I'm doing the best I can.

9 Q. Do you understand that in a civil  
10 case, unlike in a criminal case, an inference  
11 can arise that if you plead the Fifth, that the  
12 answer to the question would be detrimental to  
13 your position in this case if you were to answer  
14 truthfully.

15 Do you understand that?

16 A. I do now that you've told me.

17 Q. All right. Just wanted to make sure  
18 that you understand that, as we go forward, that  
19 because this is a civil case, StoneX is going to  
20 be able to rely on every single instance in  
21 which you plead the Fifth, and argue that you're  
22 pleading the Fifth so as to avoid giving answers  
23 that would be detrimental to you and favorable  
24 to StoneX. Just want to make sure you  
25 understand that.

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 389

1 Q. And as to your possession of Darwin,  
2 you are now pleading the Fifth Amendment against  
3 self-incrimination. Correct?

4 A. I'm not changing my answer on the  
5 questions that I pleaded the Fifth to.

6 Q. Okay. Now, StoneX compensated you,  
7 through salary and bonus, to build, to develop  
8 Darwin; isn't that right?

9 A. That was one of the things they  
10 compensated me for.

11 Q. And, upon your termination, upon  
12 learning that your employment with StoneX was  
13 ending, you took steps to steal Darwin from  
14 StoneX. Correct?

15 A. Incorrect.

16 Q. On December 9, right after you were  
17 terminated, you took steps to steal Darwin from  
18 StoneX. Didn't you?

19 A. No.

20 Q. And since December 9, 2022, you have  
21 taken steps to cover up your theft of Darwin,  
22 from StoneX. Correct?

23 A. No.

24 Q. You deleted your bash history from  
25 StoneX's servers, correct?

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 630

1 that you read off to me.

2 Q. Okay. But you didn't deny it. You  
3 just said, I don't remember whether I did it or  
4 not, right?

5 A. Yeah. I can't recall.

6 Q. And likewise here, with respect to the  
7 94 times between December 26, 2022 and March 2,  
8 2023, you're not testifying, no, absolutely not,  
9 I didn't do that. That's not what you're  
10 telling us.

11 A. I mean, you have the mind -- legal  
12 mind of a steel trap, so there's probably  
13 aspects of -- about this that I don't  
14 appreciate, but I don't recall executing  
15 SDelete.

16 Q. But I'm asking a different question  
17 now, because I'm giving you the opportunity to  
18 say, absolutely not, no way, that didn't happen.  
19 And you're not saying that.

20 A. Yeah, just saying I don't recall.

21 Q. Yeah. So having been given the  
22 opportunity to deny this outright that you  
23 executed SDelete 94 times between December 26,  
24 2023 and March 2, 2023, given the opportunity to  
25 deny it outright, you have instead chosen to

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 631

1 answer that question with "I don't recall."

2 A. I don't have any recollection of  
3 running SDelete.

4 Q. Okay. You don't have any recollection  
5 of doing it. But you're not willing to deny  
6 under oath that it ever occurred.

7 A. Yeah, I'm not certain.

8 Q. And then below paragraph 130, and I  
9 realized I made a mistake earlier about  
10 different -- something else on this page -- but  
11 you see here, one of the last passes of  
12 overwriting filename is with the Z character.  
13 Below is a screen point of locations that were  
14 overwritten likely using SDelete on March 1,  
15 2023.

16 And then there are some filenames.

17 And then they all have file modify date, file  
18 access date, they're all on March 1st.

19 Do you recognize any of those  
20 filenames?

21 Users/jovej/atdata/Rome. Then there  
22 are bunch of Zs there.

23 Do you recall -- maybe that's not a  
24 filename. Maybe it's a folder or a directory,  
25 but do you recall that?

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 716

1 I'm going to stop now.

2 We had discussion off the record. I  
3 don't want to repeat it in its entirety,  
4 but I'm just going to say there are number  
5 of things that are still owed to us by  
6 Mr. Shipman. Some of that, I believe, will  
7 be resolved by this Friday. Maybe not. I  
8 don't know.

9 There is a -- at least, one, a Memorex  
10 thumb drive that we need to address, based  
11 on the testimony here. So we are not  
12 agreeing to close the deposition at this  
13 point, but we are agreeing to adjourn it as  
14 of now.

15 THE VIDEOGRAPHER: This concludes  
16 today's deposition. We're off the record  
17 at 8:03.

18 (Time noted: 8:03 p.m.)

19

20

21

22

23

24

25

CONFIDENTIAL  
Howard Shipman - June 14, 2023

Page 718

1 C E R T I F I C A T E

2

3 STATE OF NEW YORK )  
4 COUNTY OF NEW YORK ) Ss. :  
5

6 I JEFFREY BENZ, a Certified Realtime  
7 Reporter, Registered Merit Reporter and Notary  
8 Public within and for the State of New York, do  
9 hereby certify:

10 That the witness whose examination is  
11 hereinbefore set forth was duly sworn by me and  
12 that this transcript of such examination is a  
13 true record of the testimony given by such  
14 witness.

15 I further certify that I am not related to  
16 any of the parties to this action by blood or  
17 marriage and that I am in no way interested in  
18 the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand this 15th of June, 2023.

21

22



23

JEFFREY BENZ, CRR, RMR

24

25